Remarks

Claims 1, 6-9, 11, 15-17 and 21-34 are presently before the Examiner. Claims 6, 7, 15, 24, 25, 28 and 29 have been amended.

The Examiner is thanked for indicating the allowability of claims 11, 22 and 27 if amended to include all of the limitations of the base claims and any intervening claims on the grounds that the prior art does not teach or suggest a time release tablet of the instant claims comprising shellac or zein. The Examiner is also thanked for indicating the allowability of claims 1, 8, 16, 26 and 31 on the grounds that the prior art does not teach or suggest the instant invention comprising the instant group of compression aids. Since claims 11, 22 and 27 ultimately depend from allowed claim 1, it is respectfully submitted that claims 11, 22 and 27 are allowable in their current form.

Claims 6 and 7 have been objected to on the grounds that claims 6 and 7 are improperly dependent upon cancelled claims 4 and 5. Claims 6 and 7 have been amended to depend properly from claim 1.

Claim Rejections – 35 U.S.C. 112, second paragragh

Claims 15, 24, 25, 28, 29 and 32 are rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is rejected as indefinite on the grounds that the claim recites the broad recitation "sulfonylureas" and also includes specific types of "sulfonylureas". Claim 15 has been amended to remove "glyburide, chlorpropamide, tolbutamide, glimepiride, acarbose, alglucerase, miglitol, nateglinide, pimagidine, pioglitazone, pramlintide, repaglinide, rosiglitazone, troglitazone, hypoglycemic benzenesulfonamido pyrimidines, buformin, phenformin and 1,2-Biguanides" and a new dependent claim 34 has been added to include these particular pharmaceutical actives.

Claims 24, 25, 28 and 29 are rejected as indefinite for the inclusion of the term "type". These claims have been amended to remove the term "type 2".

Claim 32 has been amended to refer to "up to about".

Claim Rejections – 35 U.S.C. 103(a)

Claims 17, 21, 23, 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al. (U.S. Patent No. 6,099,859). Cheng does not teach or suggest an encasement coat comprising about 5 up to less than 50% by weight polymer. Cheng clearly teaches that his coating includes a polymer amount in the range of 50-99% (see column 5, lines 30-43). Subsequently, Cheng requires a passageway in the coating of his invention to allow the release of a drug (see column 5, lines 8 to 15). In contrast, the Applicants' invention does not require such a passageway. A lower concentration of polymer is used, which allows extended release of the pharmaceutical active without the incorporation of a passageway. Cheng does not contemplate such a formulation. It is further submitted that the fact that a reference can be modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination (*In Re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed.Cir. 1990)*. For these reasons, this reference cannot render obvious these claims.

Conclusions

For the reasons given above, Applicants respectfully request reconsideration of this application and timely allowance of the pending claims. Applicants submit that the pending claims are in condition for allowance.

Respectfully submitted,

SIM & McBURNEY

Lola A. Bartoszewicz, Ph.D.
Reg. No:
Agent for Applicants

Sim & McBurney
330 University Avenue, 6th floor
Toronto, Ontario M5G 1R7
Tel. (416) 595-1155
Fax (416) 595-1163